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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,048	04/24/2006	Stefan Dengler	PNL21523	2323
24257	7590	08/28/2007	EXAMINER	
STEVENS DAVIS MILLER & MOSHER, LLP			CHANG, CHING	
1615 L STREET, NW			ART UNIT	PAPER NUMBER
SUITE 850			3748	
WASHINGTON, DC 20036				

  

MAIL DATE	DELIVERY MODE
08/28/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/577,048	DENGLER, STEFAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ching Chang	3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-7 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/24/06</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: ____                           |

## **DETAILED ACTION**

This Office acknowledges the Preliminary Amendment filed on 04/24/06.

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the citizenship of the inventor properly. The inventor's citizenship should be -- Germany --, instead of " German " therein.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 04/24/06 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein, e.g. BE 463654 has not been considered.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one

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skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

More specifically, "non-rotatable" in line 3 of claim 1 is new matter.

5. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

More specifically, "non-rotatable" in line 3 of claim 1 renders the claimed subject matter in claims 1-7 unoperational.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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8. ***Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Hellmann (US Patent 2,888,837).***

Hellmann discloses a valve train of an internal combustion engine comprising at least one camshaft (1) on which at least one cam element (5) is mounted so as to be non-rotatable relatively and axially displaceable, a first cam (7) and at least a second cam (8) being mounted on the at least one cam element and at least two different cam tracks (10, part of 11) configured on the at least second cam, wherein the first cam and the at least second cam of one of the at least one cam element differ from each other in at least one cam track; wherein the first cam and the at least second cam of one of the at least one cam element differ from each other in all cam tracks; wherein the cam tracks of the first cam and the least second cam of one of the at least one cam element differ from each other in lift configuration and/or in phase position; wherein the cam tracks of at least one the first cam and the sat least second cam differ in that the maximum lift of the lift configuration of a first cam track is configured outside the lift configuration of a second cam track.

9. ***Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Fujii et al. (US Patent 6,425,359).***

Fujii discloses a valve train of an internal combustion engine comprising at least one camshaft (106) on which at least one cam element (130) is mounted so as to be non-rotatable relatively and axially displaceable, a first cam (137a) and at least a

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second cam (137b) being mounted on the at least one cam element and at least two different cam tracks (13bb, 139b) configured on the at least second cam, wherein the first cam and the at least second cam of one of the at least one cam element differ from each other in at least one cam track; wherein the first cam and the at least second cam of one of the at least one cam element differ from each other in all cam tracks; wherein the cam tracks of the first cam and the least second cam of one of the at least one cam element differ from each other in lift configuration and/or in phase position; wherein the cam tracks of at least one the first cam and the sat least second cam differ in that the maximum lift of the lift configuration of a first cam track is configured outside the lift configuration of a second cam track.

10. ***Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over BE '463 (based WO/2005/040562 search report).***

BE' 463 discloses a valve train of an internal combustion engine comprising at least one camshaft (1) on which at least one cam element (3) is mounted so as to be non-rotatable relatively and axially displaceable, a first cam (4, 6) and at least a second cam (4, 6) being mounted on the at least one cam element and at least two different cam tracks (5, 7) configured on the at least second cam, wherein the first cam and the at least second cam of one of the at least one cam element differ from each other in at least one cam track.

11. ***Claims 1-3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Boyer (US Patent 1,556,410).***

Boyer discloses a valve train of an internal combustion engine comprising at least one camshaft (18) on which at least one cam element (25) is mounted so as to be non-rotatable relatively and axially displaceable, a first cam (26) and at least a second cam (27, 28) being mounted on the at least one cam element and at least two different cam tracks configured on the at least second cam, wherein the first cam and the at least second cam of one of the at least one cam element differ from each other in at least one cam track; wherein the first cam and the at least second cam of one of the at least one cam element differ from each other in all cam tracks; wherein the cam tracks of the first cam and the least second cam of one of the at least one cam element differ from each other in lift configuration and/or in phase position.

#### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ching Chang whose telephone number is (571)272-4857. The examiner can normally be reached on M-Th, 7:00 AM -5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (571)272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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PRIMARY EXAMINER  
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